

§ 5.31 Incompetence.

Incompetence is the inability on the part of a person to perform required duties, whether due to professional deficiencies, physical disability, mental incapacity, or any combination thereof.

§ 5.33 Violation of law or regulation.

Where the proceeding is based exclusively on that part of title 46 U.S.C. section 7703, which provides as a basis for suspension or revocation a violation or failure to comply with 46 U.S.C. subtitle II, a regulation prescribed under that subtitle, or any other law or regulation intended to promote marine safety or protect navigable waters, the charge shall be *violation of law or violation of regulation*. The *specification* shall state the specific statute or regulation by title and section number, and the particular manner in which it was allegedly violated.

§ 5.35 Conviction for a dangerous drug law violation, use of, or addiction to the use of dangerous drugs.

Where the proceeding is based exclusively on the provisions of title 46, U.S.C. 7704, the charge will be *conviction for a dangerous drug law violation or use of dangerous drugs or addiction to the use of dangerous drugs*, depending upon the circumstances. The *specification* will allege jurisdiction by stating the elements as required by title 46, U.S.C. 7704, and the approximate time and place of the offense.

Subpart C—Statement of Policy and Interpretation

§ 5.51 Construction of regulations.

The regulations in this part shall be construed so as to obtain a just, speedy, and economical determination of the issues presented.

§ 5.53 Initiating suspension and revocation proceedings.

Suspension and revocation proceedings are initiated upon service of charges preferred by an investigating officer.

§ 5.55 Time limitations for service of charges and specifications.

(a) The time limitations for service of various charges and specifications upon the holder of a license, certificate or document are as follows:

(1) When based exclusively on 46 U.S.C. 7704, service shall be within 10 years after the date of conviction, or at anytime if the person charged is a user of or addicted to the use of a dangerous drug.

(2) For one of the misconduct offenses specified in § 5.59(a) or § 5.61(a), service shall be within five years after commission of the offense alleged therein.

(3) For an act or offense not otherwise provided for, the service shall be within three years after the commission of the act or offense alleged therein.

(b) When computing the period of time specified in paragraphs (a) (2) and (3) of this section there shall be excluded any period or periods of time when the respondent could not attend a hearing or be served charges by reason of being outside of the United States or by reason of being in prison or hospitalized.

§ 5.57 Acting under authority of license, certificate or document.

(a) A person employed in the service of a vessel is considered to be acting under the authority of a license, certificate or document when the holding of such license, certificate or document is:

(1) Required by law or regulation; or
(2) Required by an employer as a condition for employment.

(b) A person is considered to be acting under the authority of the license, certificate or document while engaged in official matters regarding the license, certificate or document. This includes, but is not limited to, such acts as applying for renewal of a license, taking examinations for upgrading or endorsements, requesting duplicate or replacement licenses, certificates or documents, or when appearing at a hearing under this part.